

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

INTERNATIONAL UNION OF)	
OPERATING ENGINEERS,)	CIVIL ACTION
LOCAL 150, AFL-CIO,)	
)	
Plaintiff,)	NO. 08 C 89
)	
vs.)	
)	JUDGE ANDERSEN
MACDONALD CONSTRUCTION)	MAGISTRATE JUDGE BROWN
SERVICES, INC., an Illinois Corporation,)	
)	
Defendant.)	

PLAINTIFF'S NOTICE OF VOLUNTARY DISMISSAL

Plaintiff, International Union of Operating Engineers, Local 150, AFL-CIO (hereinafter, "Local 150"), by and through its attorneys, files this notice of voluntary dismissal for the reasons set forth below:

1. Plaintiff filed a Complaint on January 4, 2008 to enforce an arbitration award pursuant to 29 U.S.C. §185, alleging that Defendant MacDonald Construction Services, Inc., failed to comply with a Joint Grievance Committee award in violation of the applicable collective bargaining agreement.

2. Plaintiff sought payment of the Joint Grievance Committee's award of lost wages for Local 150 member Bryan Banbury ("Banbury") and payment of lost benefit amounts for the Midwest Operating Engineers Benefit Fund.

3. Defendant was served a copy of the summons and complaint on January 10, 2008.

4. On or about January 11, 2008, Defendant submitted payment of lost wages for Banbury and payment of lost benefits for the Midwest Operating Engineers Benefit Fund to Plaintiff.

5. Federal Rule of Civil Procedure 41(a) states that “an action may be dismissed by the plaintiff without order of court (i) by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs, or (ii) by filing a stipulation of dismissal signed by all parties who have appeared in the action.” FED. R. CIV. P. 41(a).

6. Defendant has not filed an appearance, answer or any other pleading in this action.

7. Defendant has paid amounts awarded by the Joint Grievance Committee; therefore, Plaintiff is voluntarily dismissing this action.

WHEREFORE, Plaintiff hereby dismisses this action without prejudice to the rights of Plaintiff pursuant to Federal Rule of Civil Procedure 41(a)(i).

Dated: March 31, 2008

Respectfully submitted,

INTERNATIONAL UNION OF OPERATING
ENGINEERS, LOCAL 150, AFL-CIO,

By: s/Melissa L. Binetti
Attorneys for the Plaintiff

Name and Address of Attorneys for the Plaintiff:

Dale D. Pierson
Elizabeth A. LaRose
Melissa L. Binetti
Lauren S. Shapiro
Local 150 Legal Department
6140 Joliet Road
Countryside, IL 60525
(708) 579-6663
(708) 588-1647 - facsimile

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